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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,308	06/13/2001	Barry J. Glick	774070-7	7380
23879	7590	08/02/2004	EXAMINER	
BRIAN M BERLINER, ESQ O'MELVENY & MYERS, LLP 400 SOUTH HOPE STREET LOS ANGELES, CA 90071-2899			KIM, JUNG W	
			ART UNIT	PAPER NUMBER
			2132	6

DATE MAILED: 08/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/880,308	GLICK ET AL.	
	Examiner	Art Unit	
	Jung W Kim	2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2,3 and 5</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. Claims 1-31 have been examined.

Priority

2. Acknowledgement is made that the instant application is a continuation-in-part of copending application No. 09/758,637, filed January 10, 2001, which is a continuation-in-part of copending patent application No. 09/699,832, filed October 21, 2000.

Claim Objections

3. Claim 16 is objected to because of the following informalities: claim 16 refers to itself: claim 16 should refer to claim 15. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 29 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The claim defines the limitation of a computer comprising a processor and memory (see line 5) but does not specify any structural connection between this limitation and the other limitations defined in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1-3, 10-13, 15-17, 24-27 and 29-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Phelan U.S. Patent No. 6,240,360 (hereinafter Phelan).

8. As per claim 15, Phelan discloses an apparatus for maintaining state between a client and a server, comprising: means for generating a state variable including a location value and means for utilizing the state variable to maintain state between the client and the server (see Phelan, col. 8, line 65-col. 9, line 20). The aforementioned covers claim 15.

9. As per claim 16, Phelan discloses an apparatus as outlined above in the claim 15 rejection under 35 U.S.C. 102(e). In addition, the location value corresponds to the location of the client (see Phelan, col. 9, lines 2-3). The aforementioned covers claim 16.

10. As per claim 17, Phelan discloses an apparatus as outlined above in the claim 16 rejection under 35 U.S.C. 102(e). In addition, the location value comprises a latitude and longitude dimension (see Phelan, col. 9, line 9). The aforementioned covers claim 17.

11. As per claims 24-27, Phelan discloses an apparatus as outlined above in the claim 15 rejection under 35 U.S.C. 102(e). In addition, the means for utilizing the state variable further comprises means for comparing a portion of the state variable derived from a location value comprising a latitude and longitude dimension corresponding to the location of the client to a data base to identify the client (see Phelan, col. 8, line 65-col. 9, line 20, especially col. 8, line 67). The aforementioned cover claims 24-27.

12. As per claims 1-3 and 10-13, they are method claims corresponding to claims 15-17 and 24-27 and they do not teach or define above the information claimed in claims 15-17 and 24-27. Therefore, claims 1-3 and 10-13 are rejected as being anticipated by Phelan for the same reasons set forth in the rejections of claims 15-17 and 24-27.

13. As per claim 29, Phelan discloses a system for facilitating interaction between a user and a web application on a remote server, comprising:

- a. a computer comprising a processor and memory (see Phelan, Figure 3, Reference No. 10);
- b. a GPS receiver for generating location values corresponding to the user's geographic location (see Phelan, col. 7, line 65-col. 8, line 4; col. 9, lines 2-9);
- c. means for generating a state variable derived from the location values (see Phelan, col. 8, lines 65-66; col. 9, line 9);
- d. means for utilizing the state variable to maintain state between the user and the web application (see Phelan, col. 5, lines 53-59; col. 8, line 66-col. 9, line 4).

The aforementioned covers claim 29.

14. As per claim 30, Phelan discloses a system as outlined above in the claim 29 rejection under 35 U.S.C. 102(e). In addition, the computer further comprises the means for generating the state variable and the means for utilizing the state variable (see Phelan, col. 8, line 65-col. 9, line 20). The aforementioned covers claim 30.

15. As per claim 31, Phelan discloses a system as outlined above in the claim 30 rejection under 35 U.S.C. 102(e). In addition, the computer further comprises the GPS receiver (see Phelan, col. 7, line 65-col. 8, line 4). The aforementioned covers claim 31.

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

18. Claims 4, 14, 18 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phelan, and further in view of Murphy U.S. Patent No. 5,640,452 (hereinafter Murphy).

19. As per claims 18 and 28, Phelan discloses an apparatus as outlined above in the claim 17 and 27 rejections under 35 U.S.C. 102(e). Phelan does not disclose the location value further comprising an altitude dimension. Murphy discloses a location

determination module storing a location value that includes altitude as a third dimension (see Murphy, col. 7, lines 60-62). It would be obvious to one of ordinary skill in the art at the time the invention was made for the location value to include an altitude dimension. Motivation for such a combination enables the location of the client to be pinpointed in 3-dimensional space (see Murphy, Figure 1). The aforementioned cover claims 18 and 28.

20. As per claims 4 and 14, they are method claims corresponding to claims 18 and 28 and they do not teach or define above the information claimed in claims 18 and 28. Therefore, claims 4 and 14 are rejected as being unpatentable over Phelan in view of Murphy for the same reasons set forth in the rejections of claims 18 and 28.

21. Claims 5-9 and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phelan, and further in view of Wood et al. U.S. Patent No. 6,668,322 (hereinafter Wood).

22. As per claims 19-21, Phelan discloses an apparatus as outlined above in the claim 15 rejection under 35 U.S.C. 102(e). Phelan is silent on the matter of the state variable further including a temporal value wherein the temporal value corresponds to the creation of the state variable and the invocation of an Internet browser session. Wood teaches a system for employing secure credentials wherein a state variable includes a temporal value, which corresponds to the creation of the state variable and

the invocation of an Internet browser session (see Wood, col. 6, lines 64-65; col. 10, lines 48-54 and 62-65). It would be obvious to one of ordinary skill in the art at the time the invention was made for a temporal value to be incorporated in the state variable since it represents an essential component of a session state (see Wood, col. 10, lines 62-64). The aforementioned cover claims 19-21.

23. As per claims 22 and 23, Phelan covers an apparatus as outlined above in the claim 19-21 rejections under 35 U.S.C. 103(a). In addition, Wood teaches deriving an anonymous state variable by mathematically encoding the state variable (see Wood, Figure 4, Reference No. 430 and related text). It would be obvious to one of ordinary skill in the art at the time the invention was made for the apparatus to further comprise means for deriving an anonymous state variable by mathematically encoding the state variable to maintain the integrity and privacy of the credential information stored in the state variable (see Wood, col. 6, lines 61-65). The aforementioned cover claims 22 and 23.

24. As per claims 5-9, they are method claims corresponding to claims 19-23 and they do not teach or define above the information claimed in claims 19-23. Therefore, claims 5-9 are rejected as being unpatentable over Phelan in view of Wood for the same reasons set forth in the rejections of claims 19-23.

Telephone Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jung W Kim whose telephone number is (703) 305-8289. The examiner can normally be reached on M-F 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (703) 305-1830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jung W Kim
Examiner
Art Unit 2132

Jk
July 20, 2004

Justin Darrow
JUSTIN T. DARROW
PRIMARY EXAMINER